

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANT: Selim Shlomo Rakib CONFIRMATION NO.: 2421  
SERIAL NO.: 09/898,728  
FILING DATE: 07/03/2001  
TITLE: REMOTE CONTROL FOR WIRELESS CONTROL OF SYSTEM  
INCLUDING HOME GATEWAY AND HEADEND, EITHER OR  
BOTH OF WHICH HAVE DIGITAL VIDEO RECORDING  
FUNCTIONALITY  
EXAMINER: Andramuno, Franklin S.  
ART UNIT: 2424

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**Mail Stop Appeal Brief-Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450**

**REPLY BRIEF**

Sir:

In response to the Examiner's Answer mailed December 19, 2008, Applicant responds to new points of argument as set forth in the following **Remarks**, which begin on page 2.

## REMARKS

The Response to Argument section (Page 15) of the Examiner's Answer mailed December 19, 2008 consists of seven paragraphs and contains various new points of argument, each of which will be responded to in turn, paragraph by paragraph.

As a preliminary matter, however, Applicant notes two quite different usages of the term "remote," both of which are found in the primary reference Ellis. One usage occurs in connection with the phrase "remote control." In this instance, "remote" typically means "within the same room." Another usage occurs in connection with the phrase "remote access." In this instance, "remote" typically means geographically remote (e.g., across town, across states lines, across country, etc.).

Based on the Final Rejection, Applicant understood the Examiner's position to be that the remote program guide access device 24 (Fig. 2a) of Ellis corresponds to the claimed remote control means of the present invention. However, in the **first paragraph** of the Response to Argument section of the Examiner's Answer, an alternative interpretation of Ellis is apparently proposed in which the remote control 40 (Fig. 3) of Ellis supposedly corresponds to the claimed remote control means. This interpretation, too, is believed to fall short of teaching or suggesting the present invention.

In particular, there is no description in Ellis of the remote control 40 being anything other than a common, ordinary remote control of a type well-known at the time of the present invention (the year 2000 or 2001). Such a remote control, while it controlled the equipment it was designed to control (e.g., on/off, volume, channel selection, etc.), did not to Applicant's knowledge "*issue commands to said headend circuit through said gateway and one or more transmission mediums to provide data to said one or more peripherals through said one or more transmission mediums and said gateway.*" (Claim 1.) There is absolutely no teaching or suggestion in Ellis that the remote control 40 functions in this manner.

Furthermore, the first paragraph of the Response to Argument section appears to attach unwarranted significance to the proximity to the link 19 in Fig. 3 of Ellis of an arrow representing wireless transmission by the remote control 40. Such proximity, Applicant submits,

is purely coincidental, the intention merely being for the arrow to indicate connection to the set-top box 28. There is *no basis* for reading into Ellis some special interaction of the remote control 40 and the link 19.

The Response to Argument section, however, does not decisively choose one or the other of the remote control 40 and the remote program guide access device 24 as corresponding to the claimed remote control means. In the **second paragraph** of the Response to Argument section, the focus is again on the remote program guide access device. However, as noted repeatedly in the Appeal Brief, the remote program guide access device 24 is *remote* in the second sense of the word (i.e., “remote access”). It is not located at the customer premises and hence cannot correspond to the remote control means as claimed. With regard to the final sentence of the second paragraph of the Response to Argument section (“It should also be noted that Ellis discloses in (figure 33b) each user television equipment (244) is connected to a remote user television equipment through the network node server (256”)), Applicant is unclear as to the relevance of this observation.

The **fourth paragraph** of the Response to Argument section again focuses on the remote program guide access device 24. This device is not located at the customer premises and therefore cannot correspond to the claimed remote control means. The final sentence is similar to the final sentence of the second paragraph: “It should be noted that on (figure 29) each of the secondary user television equipment (261), (262), and (263) are connected to the primary user television equipment (260). Therefore, this shows the remote access device necessarily connects to a master server (260) in order to communicate with another customer premise.” Applicant does not readily follow, much less agree with, the conclusion drawn. In any event, the fact remains that the remote program guide access device 24 is not located at the customer premises and hence cannot correspond to the remote control means as claimed.

The **fifth paragraph** of the Response to Argument section states: “Ellis shows on (Figure 31) that each user television equipment must connect to the server (80) in order to communicate with each other.” Applicant is again unclear as to the relevance of this observation.

The **sixth paragraph** of the Response to Argument section correctly observes that the third paragraph on page 20 of the Appeal Brief erroneously repeats the preceding paragraph. The third paragraph, instead of referring to claim 5 as in the preceding paragraph, was meant to refer to claim 6. Applicant apologizes for this inadvertent error.

The **seventh and final paragraph** of the Response to Argument section focuses on the purportedly bidirectional nature of the link 19 of Ellis. However, although claim 8 does indeed claim bidirectional data transfer between the gateway and the internet server, claim 8 is believed to define over Ellis with or without this feature. Rather, it is the fact that the remote program guide access device 24 is not located at the customer premises that, *inter alia*, prevents it from corresponding to the remote control means as claimed.

**Conclusion**

For the reasons set forth in the Appeal Brief as supplemented by those in this Reply Brief, Applicant submits that all of the appealed claims patentably define over the cited references; that the Final Rejection is insufficient to establish anticipation or to establish a *prima facie* case of obviousness; and that the rejection should therefore be reversed with respect to all claims.

Please charge any additional required fees, including those necessary to obtain extensions of time to render timely the filing of the instant Amendment and/or Reply to Office Action, or credit any overpayment not otherwise credited, to our deposit account no. 50-3557.

Respectfully submitted,  
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